

Dear Families,

An important ruling came out of the United States Court of Military Commission Review (U.S.C.M.C.R.), our first level of appellate review, in *United States v. Al Nashiri* (the USS COLE bombing military commission), but it is applicable to all of our current military commission cases, including *United States v. KSM et al*, and *United States v. Hadi al-Iraqi*.

On October 11, 2018, the U.S. Court of Military Commission Review vacated the former military judge's (Judge Vance H. Spath's) February 2018 abatement order and made the following findings: (1) that certain members of the Accused's defense team have not been properly excused from the case and remain legally and ethically required to continue to represent him unless and until they are properly excused; (2) that the military judge is the final release authority for counsel once an attorney-client relationship has been formed and the counsel has entered an appearance before the commission; and (3) that an accused's right to learned counsel is not absolute, but is limited by language in the 2009 Military Commissions Act directing that assistance of Learned Counsel is to be provided to the "greatest extent practicable." The decision remanded the case to the military judge (Judge Shelly W. Schools) and ordered the Commission to proceed consistent with its decision.

The issue decided by the U.S.C.M.C.R. has not been raised in *U.S. v. KSM et al* or in the *Hadi al - Iraqi* cases. However, the U.S.C.M.C.R. decision governs the law in all of our active military commission cases, and we wanted you to be apprised of this important decision.

Very respectfully,

Karen V. Loftus

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Chief Prosecutor of Military Commissions